

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

In the Matter of )

Implementation of Further Streamlining )  
 Measures for Domestic Section 214 )  
 Authorizations )

CC Docket No. 01-150

**REPLY COMMENTS OF CENTURYTEL, INC**

CenturyTel, Inc. ("CenturyTel"), through its attorneys, hereby offers the following Reply Comments on the Declaratory Ruling and Notice of Proposed Rulemaking ("Notice") in the above captioned proceeding.

**I. INTRODUCTION**

CenturyTel, headquartered in Monroe, Louisiana, is a leading provider of integrated communications services to rural markets. CenturyTel provides a variety of high-quality communications services to nearly three million customers in rural communities in 21 states, including local exchange and advanced services, wireless service, long distance, security monitoring, information services, and broadband and dial-up Internet access. Today, CenturyTel's rural telephone companies provide local exchange telephone service to over 1.8 million access lines, but approximately half of its exchanges have fewer than 1,000 access lines each, and its average exchange has only 1,800 access lines. All of CenturyTel's operating companies meet the statutory definition of a "rural telephone company."<sup>1</sup>

CenturyTel has significant experience in the acquisition of wireline and wireless holdings and has grown rapidly over the past several years. The company has nearly tripled in size

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<sup>1</sup> 47 U.S.C. § 153(37).

since 1996, largely through purchases of rural exchanges from larger carriers.<sup>2</sup> In CenturyTel's experience, many of these acquired lines are either in poor condition or there is low penetration of custom or advanced services at the time of acquisition. As a result, CenturyTel has made significant investments in plant upgrades and enhanced telecommunications services, bringing improved service and quality to these rural areas. CenturyTel has found that any delay in closing such purchases delays these much-needed investments and may negatively affect the company's business plans.

CenturyTel joins the other commenters to the Notice in applauding the Commission's proposal to streamline its review of transactions between licensees. By doing so, the Commission would expedite the closing of these transactions, thereby allowing improvements to rural lines to be made sooner and without compromising the Commission's duty to protect competition. In streamlining the process for section 214 authorizations, the Commission should also streamline the process for other similar acquisitions. CenturyTel therefore disagrees with the comments submitted by WorldCom, Inc. ("WorldCom"), in which it suggests that streamlined procedures should not be applied to changes in corporate control involving waiver requests until the Commission has made a case-by-case determination that streamlined review is appropriate.<sup>3</sup>

## **II. DISCUSSION**

### **A. CenturyTel urges the Commission to streamline treatment of both asset and stock acquisitions.**

#### **1. There is no principled basis for differentiating between stock and asset deals.**

There is no principled reason for the distinction the Commission makes in section 63.01 of the Commission's rules, allowing blanket authority for acquisitions of lines through

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<sup>2</sup> See, e.g., *CenturyTel of Central Wisconsin and GTE North Incorporated*, CC Docket No. 96-45, Order, DA 00-1863 (Com. Car. Bur., Acct'g Pol. Div., rel. Aug 16, 2000).

<sup>3</sup> See Comments of WorldCom at 13.

assets transactions but requiring section 214 authorization for acquisitions through changes in corporate control. As the United States Chamber of Commerce (“USCOC”) points out, the fact that an acquisition is structured as a stock deal does not change the public policy implications of the acquisition.<sup>4</sup> Therefore, at least in the context of midsize ILECs, the Commission should not employ a stricter standard of review when evaluating acquisitions through changes in corporate control than it does in evaluating acquisitions of exchanges. Review of both types of transactions should be streamlined so that the Commission’s pro-competitive and deregulatory goals will be more clearly reflected in the Commission’s review and approval process.

If the acquisition of domestic lines does not raise any public interest concerns, the Commission should grant section the 214 authorization on an expedited basis without regard to the structure of the acquisition. In fact, a streamlined procedure that expedites the acquisition of lines will benefit the public because the acquiring service provider will be able to improve service and provide needed network upgrades without significant delays. Moreover, services to the public could suffer while smaller transactions undergo needless review that is overly extensive in time and scope.<sup>5</sup>

**2. The Commission should establish a limited review process for small and midsize carrier Section 214 applications.**

The Commission should eliminate routine review of acquisitions of corporate control by midsize carriers by establishing an approval process similar to that employed for streamlined service discontinuance under section 63.71 of the Commission’s rules. Under that process, absent contrary Commission action, the application is deemed approved after a limited notice period.

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<sup>4</sup> See Comments of USCOC at 3-4.

<sup>5</sup> See Comments of Verizon at 2.

In CenturyTel's experience, the Commission has routinely granted authorization for small and midsize ILEC acquisitions, whether structured as a change in corporate control or an acquisition of assets, because the limited size and nature of the transactions do not trigger public interest concerns.<sup>6</sup> For instance, the Commission approved the CenturyTel/PTI merger and the ALLTEL/Aliant merger, which both involved midsize carriers, without conditions and without substantial controversy. The Commission's review of these transactions was substantially more limited than its review of transactions involving large carriers, which have in the past involved numerous public interest conditions on the Commission's approval of the transaction. Given that the Commission has nevertheless approved numerous transactions involving large carriers, it is difficult to imagine that a merger or acquisition of assets by a small or midsize carrier would raise substantial public interest concerns.<sup>7</sup>

Therefore, at the very least, the Commission should streamline its review of transactions involving small and midsize carriers, as defined in the Commission's rules.<sup>8</sup>

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<sup>6</sup> See, e.g., *ALLTEL Corporation, Petition for Waiver of Section 61.41 of the Commission's Rules and Applications for Transfer of Control, Memorandum Opinion and Order*, 14 FCC Rcd 14191 (1999); *PacifiCorp Holding, Inc. Transferor, and Century Telephone Enterprises, Inc. Transferee, For Consent to Transfer Control of Pacific Telecom, Inc. a Subsidiary of PacifiCorp Holdings, Inc., Memorandum Opinion and Order*, 13 FCC Rcd 8891 (1997).

<sup>7</sup> See, e.g., *Application of GTE Corporation and Bell Atlantic Corp. for Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License, Memorandum Opinion and Order*, 15 FCC Rcd 14032 (2000); *Qwest Communications, International, Inc. and US West, Inc., Application for Transfer of Domestic and International §§ 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License, Memorandum Opinion and Order*, 15 FCC Rcd. 11909 (2000); *Application of Ameritech Corp., Transferor, and SBC Communications, Inc., Transferee for Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 25, 63, 90, 95 and 101 of the Commission's Rules, Memorandum Opinion and Order*, 14 FCC Rcd 14712 (1999).

<sup>8</sup> 47 C.F.R. § 32.9000 (defining "Mid-sized incumbent local exchange carrier" as "a carrier whose operating revenue equals or exceeds the indexed revenue threshold and whose revenue when aggregated with the revenues of any local exchange carrier that it controls, is controlled by, or with which it is under common control is less than \$7 billion"); see also Comments of Verizon at 5 (advocating streamlined treatment of transactions involving Class B companies).

Transactions involving these carriers are not likely to raise public interest concerns, as illustrated by the cases cited above.

Non-controversial applications involving small and midsize carriers should be limited to pro forma notices, similar to those required for wireless or international line transfers.<sup>9</sup> These pro forma notices would require the applicants to give the Commission notice of the transaction within 30 days after the close of the transaction. The transaction would then be deemed approved unless the Commission were to take contrary action within that period.<sup>10</sup> Additionally, these pro forma procedures would allow the Commission to retain sufficient authority to protect against any public interest harms that might result from the transaction.

**3. CenturyTel agrees with Verizon's suggestions regarding the methods of streamlining section 214 authorizations.**

For transactions in which the Commission does choose to issue a written public interest opinion, CenturyTel supports Verizon's comments on streamlining the section 214 authorization procedures. As Verizon suggests, the Commission should (1) limit its review to areas not covered by other agencies, and (2) consolidate application review so that all approvals are issued together.

First, the Commission could reduce processing time by foregoing duplicated review by other agencies. The Department of Justice and the Federal Trade Commission will review antitrust concerns in these transactions. The Commission should defer to those agencies' review of such competition issues.

Where a transaction does not qualify for streamlined procedures or where the Commission denies authorization after the applicant submits the pro forma notice, CenturyTel

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<sup>9</sup> See *id.* at 5.

<sup>10</sup> See, e.g., 47 C.F.R. §63.24.

urges the Commission to notify parties of the expected length of the review period. As discussed above, the uncertainty of the regulatory approval may severely interfere with many business aspects of the transaction, thereby harming the quality of service provided to customers. If the Commission informed parties of the length of the approval period, it would greatly reduce some of the burdens involved in any extended review process.

In addition, coordination between Bureaus and Offices at the Commission that are responsible for reviewing different aspects of the proposal will speed up the process and ensure that approvals are not issued piecemeal. The Commission should therefore establish a single point of contact within the Commission that can coordinate review and keep the applicants apprised of the status of the Commission's review.

**B. The Commission should streamline its approval of acquisitions of assets.**

The Commission also should streamline its approval process for acquisitions by small and midsize carriers of assets from larger LECs. These transactions, while subject to blanket section 214 approval and streamlined discontinuance procedures, often involve non-controversial waivers of the Commission's price cap, pooling, and study area boundary rules.<sup>11</sup>

In CenturyTel's experience, many of these waiver requests have held up asset acquisitions for many months while the parties awaited the Commission's approval.<sup>12</sup> CenturyTel

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<sup>11</sup> CenturyTel therefore disagrees with WorldCom's comments suggesting that the Commission apply streamlined procedures for transaction requiring waivers only on a case-by-case basis. Under WorldCom's suggested procedure, rural carriers that might otherwise be eligible for streamlined procedures would be required to undergo extended review. WorldCom's suggested treatment of applications with waiver requests goes directly against the Commission's sense that asset acquisitions that are unlikely to raise public interest concerns should not be subject to unnecessary scrutiny. *See* Notice at ¶ 25. Rural carriers would be harmed more by this exclusion than larger carriers would because rural carriers are more likely to require study area, pooling and price cap waivers than their larger counterparts.

<sup>12</sup> *See, e.g., CenturyTel of Northwest Arkansas, LLC, CenturyTel of Central Arkansas, LLC, and GTE Arkansas Incorporated, GTE Midwest Incorporated, GTE Southwest Incorporated, Joint Petition for*

understands that the Commission often must use its limited resources on more high-profile matters; however, these waivers are of critical importance to all parties involved in the acquisition transaction. In other proceedings, therefore, CenturyTel has advocated a blanket waiver process that would eliminate the need for the Commission to conduct a review of individual applications.<sup>13</sup> Specifically, CenturyTel has asked the Commission to grant blanket waivers of the following rules: (1) price cap all-or-nothing and one-way-door rules;<sup>14</sup> (2) common line pooling all-or-nothing and one-way-door rules;<sup>15</sup> and (3) study area boundary freeze.<sup>16</sup>

Such a process for these waivers would free the Commission's resources to be used towards other, more controversial issues. Moreover, as RBOCs continue to divest their rural lines, the Commission faces the possibility of having to process more waiver requests than it has had to deal with in the past. Backlogs are likely to result, causing additional delays and harm to the public interest.

These delays are costly both to midsize carriers and their newly acquired customers and create a sense of uncertainty for buyer, seller and customers. For instance, acquiring carriers must hire customer service representatives and other staff for an indefinite period in anticipation of closing so that they will be available at the exact moment when the transaction closes and the seller departs. Otherwise, there would be gaps in service to the customers serviced by the lines in question. In addition, protracted approval processes delay new

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*Waiver of Definition of "Study Area" Contained in the Part 36 Appendix-Glossary of the Commission's Rules*, DA 00-1434, Memorandum Opinion and Order, CC Docket No. 96-45 (Jun. 27, 2000).

<sup>13</sup> See CenturyTel, Inc. *Ex Parte* Presentation in CC Docket Nos. 00-256, 96-45, 98-77 and 98-166 (Sep. 20, 2001).

<sup>14</sup> See 47 C.F.R. § 61.41(c).

<sup>15</sup> See 47 C.F.R. § 69.3(g)(2).

<sup>16</sup> See 47 C.F.R. Part 36 Appendix.

investment and the delivery of new services to the acquired customers. CenturyTel urges the Commission, as it has done in the past, to waive rules that inhibit CenturyTel's acquisition of price cap carrier lines and to remove obstacles to CenturyTel's investment in rural network infrastructure and new services.

Grants of these waivers are non-controversial because the Commission's rules provide sufficient protection from abuse. As a result, the Commission approves such requests in virtually every case.<sup>17</sup> Filing for, and then waiting for final approvals of these waivers add an additional and unneeded layer of delay and uncertainty. For instance, due to the annual tariff review process, the Commission is able to monitor carriers to whom it granted a waiver of common line pooling rules. Through the annual review, the Commission has the opportunity to investigate rates filed by all ILECs. Further, section 54.305 of the Commission's rules protects the universal service fund by ensuring that the transaction cannot increase per-line universal service support. Therefore, study area freeze waivers are unnecessary in this context. Moreover, in recent years, the Commission has been less concerned with the price cap rules. As an example, the Commission granted waivers in connection with the ALLTEL/Aliant merger, for both a request to elect rate of return regulation, and a subsequent request to be subjected to price cap regulation.

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<sup>17</sup> See, e.g., *CenturyTel of Central Wisconsin, LLC and GTE North Incorporated, Joint Petition for Waiver of Definition of "Study Area" Contained in the Appendix to Part 36 of the Commission's Rules (Glossary)*; *CenturyTel of Central Wisconsin, LLC, Petition for Waiver of Sections 61.41(c) and 69.3(g)(2) of the Commission's Rules*, Order, 15 FCC Rcd 15043 (2000).



### III. CONCLUSION

For the foregoing reasons, CenturyTel recommends that the Commission implement streamlined processing procedures for Section 214 review of small- and midsize carrier transactions involving the acquisitions of domestic lines. Further, CenturyTel recommends that the Commission establish a process for granting blanket waivers of other rules commonly relating to such acquisitions.

Respectfully submitted,

CENTURYTEL, INC.

A handwritten signature in black ink, appearing to read "Richard R. Cameron". The signature is fluid and cursive, with a large initial "R" and "C".

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